

FTC@100



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Welcome to our Online Forum from Chairman Kovacic

FTC @ 100

1 Comment »

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1. How well is the FTC carrying out its responsibilities, and by what criteria should we assess our work?
2. What techniques should the FTC use to measure the agency's success?
3. What resources will the FTC need to perform its duties in the future?
4. What methods should the FTC use to select its strategy for exercising its powers?
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An important component of this self-assessment is engaging in external consultations with a broad array of thoughtful observers of competition and consumer protection law and policy in general and the FTC in particular. We hope that this online forum will offer all of you an opportunity to provide your insights into the various issues surrounding our self-evaluation and will stimulate a vibrant online dialogue.

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Mission, Structure, and Resources

 FTC @ 100

 No Comments »

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- Could the competition and consumer protection missions be better harmonized?
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Evaluating our Competition Mission

 FTC @ 100

 No Comments »

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- 2. Does the agency provide appropriate guidance to industry and others subject to its jurisdiction? What is the proper role of industry self-regulation?
- 3. What is the most effective means for forming competition policy: a centralized top-down manner or a more decentralized bottom-up approach? Should there be specific procedures or protocols in place to develop and implement policy? Does the current FTC structure tend to facilitate one type of decision making?
- 4. How can the FTC make optimal use of its mix of enforcement and other tools, including research, advocacy, and consumer and business education? How should resources be allocated between enforcement and other tools to promote competition?
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FTC @ 100

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Our External Relations

FTC @ 100

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One Response to “Welcome to our Online Forum from Chairman Kovacic”

1. **Maureen Ohlhausen** Says:
August 20th, 2008 at 9:45 pm

I would like to add my thanks as well and encourage those who have made it this far to take the next step and post comments on our other discussion groups.

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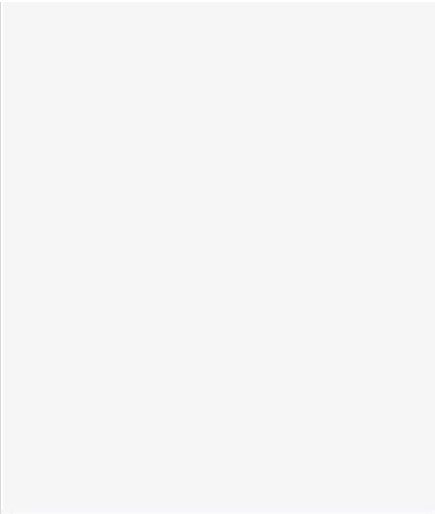
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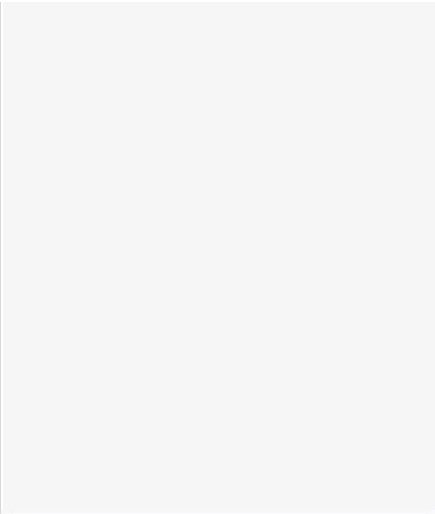
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2 Responses to "Evaluating our Consumer Protection Mission"

1. **choofnagle** Says:

August 27th, 2008 at 12:23 am

Thanks to the Federal Trade Commission for creating this forum, and for looking back on the agency's efficacy. I have several suggestions:

- 1) It really does help to have more events outside of Washington, DC. The FTC has done a good job in promoting OTB events, and I encourage you to do more. The conversation changes substantively OTB, for the better, in that the dominance of the Washington policy groups is diminished.
- 2) I would encourage the FTC to develop standards for evaluating the efficacy of self-

regulation. Too often, the FTC declares that self-regulation will solve a problem, but it fails to define a) how long self-regulation should take to solve the problem and b) what an acceptable solution is. The FTC would be in a much better position to deal with online advertising if it had specified guidelines to evaluate the success/failure of the NAI. Same with the IRSG—it's difficult to say whether it was a success or failure, because while the FTC did an excellent review of the proposal, it never set performance benchmarks for the industry.

3) I am concerned that the FTC's fines may be lower than the gains had through fraud. I would call the agency's attention to four recent cases: Adteractive, Member Source Media, DirectRevenue, and Airborne. In some of these cases, the company enjoyed revenue far in excess of the fine, and often the company wouldn't even have a product but for the fraud alleged by the FTC. Take Airborne, for instance. That product had traded on the misconception that it is efficacious for years, and now it has many competitors making similar claims and enjoying the misleading claims made by Airborne. \$30M was too little, too late.

4) Law & economics is great, but it should be informed with a broader array of research. Good law and economics is done by people who progressed beyond Econ 101 in college; it should take into consideration more recent trends that do a much better job explaining consumers (such as the behavioral economist movement).

2. **abeato** Says:

September 22nd, 2008 at 1:32 pm

ACA International (ACA) welcomes the opportunity to comment on the FTC@100 Online Forum concerning the discussion group on the Consumer Protection Mission. ACA is an international trade organization composed of credit and collection companies that provide various accounts receivable management services. Headquartered in Minneapolis, ACA represents approximately 6,000 members including credit grantors, third-party collection agencies, attorneys, and vendor affiliates. The Commission regulates many of these entities pursuant to the Fair Debt Collection Practices Act (FDCPA), the Fair Credit Reporting Act, and other Federal statutes.

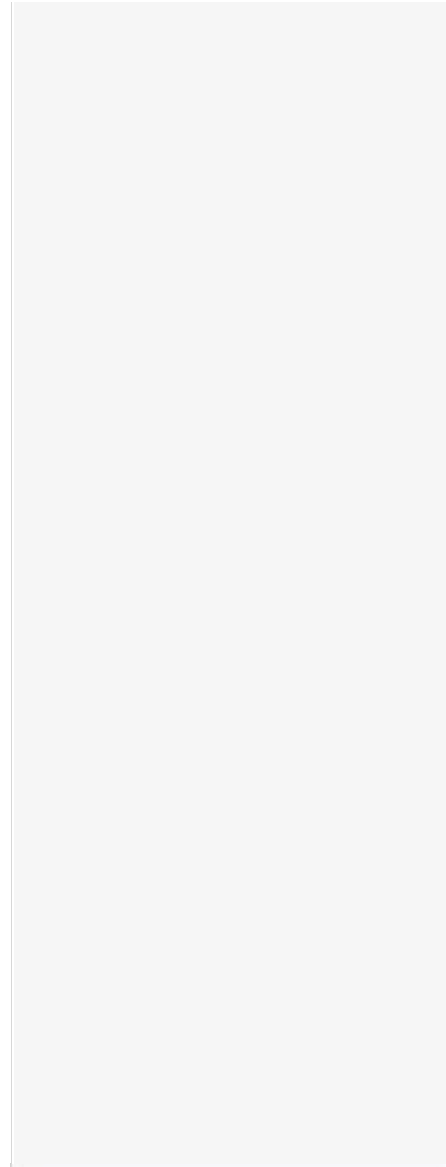
A topic for this discussion group is the proper role of industry self-regulation. ACA has special interest in this subject. Consistent with its long-term Strategic Plan, ACA is extensively exploring a quasi-governmental self-regulatory organization for the credit and collections industry. Indeed, the FTC long has noted that self-regulation can be more prompt, flexible, responsive, and beneficial to consumers than protracted administrative enforcement.

ACA's SRO vision builds upon successful self-regulatory models that work in lock-step with the corresponding administrative agency. One example is the National Futures Association and its relationship with the CFTC which regulates futures trading. Similar to the NFA model, ACA is exploring a comprehensive dispute resolution program for consumer complaints, the development of self-regulatory standards and rules for the marketplace, and the adoption of detailed procedures to memorialize the rights and responsibilities of all sides to consumer debt transactions.

Despite formidable barriers, ACA is pursuing this goal based on the belief that the proper role of an SRO is to increase accountability and transparency, and to do so in lockstep with our Federal and State regulators. As the primary Federal regulator of many ACA members, we will continue to reach out to the Commission staff in this endeavor, and we look forward to attending the Chicago Roundtable discussion on September 25 concerning the use of industry self-regulation as a complement to administrative enforcement.

We also take this opportunity to request that the Commission undertake an analysis of the methodology of its collection and analysis of consumer complaints about third party debt collectors. The FDCPA requires the Commission to annual report to Congress concerning the administration of its functions under the statute, including the extent to which compliance is being achieved, a summary of enforcement actions, and any necessary or appropriate recommendations. 15 U.S.C § 1692m. For many years, the Commission has reported to Congress consumer complaints as one measure of industry. Although it is acknowledged in annual reports that these complaints are not verified as violations of the law, the data annually is reported as complaints.

Unverified consumer complaints may have a critical role in the Commission's law enforcement function, however this data is not an accurate barometer of industry wide compliance. The data does not confer reliable statistical data that may be used by Congress to properly assess the



efficacy of the statute and/or need for legislative changes. We respectfully submit that this process is worthy of analysis under Section 515 of the Treasury and General Government Appropriations Act, Pub. L. No. 106–554, and the FTC’s guidelines to ensure and maximize the quality, objectivity, utility, and integrity of information, including statistical information, disseminated by the Commission.

We note that ACA has raised these and other issues in commentary filed with the Commission located at:

- 1. <http://www.ftc.gov/os/comments/debtcollectionworkshop/529233-00016.pdf>
- 2. <http://www.ftc.gov/os/comments/debtcollectionworkshop/529233-00031.pdf>
- 3. <http://www.ftc.gov/os/comments/debtcollectionworkshop/529233-00059.pdf>

We applaud the Commission for undertaking this rigorous self-assessment as the Agency prepares to enter its second century, and we look forward to working with the Commission staff.

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Our External Relations

FTC @ 100

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The fourth topic that we would like to focus on is the FTC's external relationships, examining the agency's interactions with its various constituencies and its effectiveness in promoting sound competition and consumer protection policies. Areas of discussion include but are not limited to:

1. To which constituencies should the FTC be primarily responsible? Congress? The Executive? The public? Does this differ by mission? How effective is the FTC in responding to these constituencies' demands?
2. How does the FTC communicate its goals and outcomes to its constituencies and how does it collect information from its constituencies? Does the appropriate method of communication vary by constituency?
3. Does the agency provide appropriate guidance to industry and others subject to its jurisdiction? When should consumer and business education be used? Does the agency effectively use such education to prevent unlawful conduct – by educating consumers to avoid harm caused by such conduct and businesses to act within the law?
4. To what extent do solid relationships with other federal, state, and international entities advance the FTC's missions? How can those relationships be improved?

One Response to "Our External Relations"

1. **rtritell** Says:
October 3rd, 2008 at 11:59 pm

What do people think about the role of the FTC and/or the US antitrust agencies as a "leader" in the field of international antitrust? One increasingly hears the claim that the US is losing (or has lost) its leadership role, typically to the EC. Chairman Kovacic's remarks at a recent conference on "The United States and the Future Development of Competition Policy" touched on this issue. <http://www.ftc.gov/speeches/kovacic/080923compolicygwkovacic.pdf>

What does it mean to be a "leader" in this field?

Who should we be leading? To what?

Is the FTC and is the US fulfilling this role?

Is it important that we be a leader?

How can we be a better leader?

Please share your reactions and ideas!

Randy

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